

ORIGINAL

7
8/17/01
JKIN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ANH LE,

Petitioner

v.

JANET RENO, U.S. Attorney
General,

Respondent

No. 1:CV-00-2142

(Judge Caldwell)

FILED
HARRISBURG

AUG 16 2001

MARY E. D'ANDREA, CL
Per 9/18
DEPUTY CLERKRESPONDENT'S SUPPLEMENTAL RESPONSE TO THE
PETITION FOR WRIT OF HABEAS CORPUS

On December 12, 2000, Petitioner Anh Le filed the instant Petition for Writ of Habeas Corpus. Le's sole claim in this case is that his continued detention pending removal to Vietnam violates constitutional due process. On February 21, 2001, Respondent filed its response to the petition. Respondent argued initially that Le's continued detention was statutorily authorized and constitutionally permissible.


On July 19, 2001, the Court directed Respondent to submit a supplemental brief in light of Zadvydas v. Davis, ___ U.S. ___, 121 S.Ct. 2491 (June 28, 2001), Calcano-Martinez v. INS, ___ U.S. ___, 121 S.Ct. 2268 (June 25, 2001), and INS v. St Cyr, ___ U.S. ___, 121 S.Ct. 2271 (June 25, 2001). The instant filing constitutes Respondent's supplemental brief.

The Immigration and Naturalization Service (INS) has informed undersigned counsel that on August 9, 2001, Le was released from INS custody on an order of supervision. Attach. 1. Thus, it appears that Le's claims in the instant case are moot. Respondent respectfully requests that the Court dismiss

the petition on that basis.

Respectfully submitted,

MARTIN C. CARLSON
United States Attorney


DULCE DONOVAN
ASSISTANT U.S. ATTORNEY
228 Walnut Street
P.O. Box 11754
Harrisburg, PA 17108
717/221-4482

Dated: August 16, 2001

Exhibit 1

AUG-15-2001 11:47

INS DISTRICT COUNSEL

215 656 7148 P.02/05



U.S. Department of Justice
Immigration and Naturalization Service

HQPDO, 801 1 St. NW
Washington, DC 20536

Anh Le
C/O Philadelphia District Office
Snyder County Jail
1600 Callowhill Street
Philadelphia, PA 19130

A27 748 801

Decision of Post Order Custody Review - Release

You are currently detained in the custody of the Immigration and Naturalization Service (INS). To date, the INS has been unable to remove you from the United States as ordered on May 31, 2000.

Upon review of your case, the INS has concluded that you may be released from INS custody pending your removal from the United States. This release does not effect the foregoing order and does not constitute an admission to the United States.

Your release will be subject to certain written conditions that will be provided to you shortly, and by which you must abide. A violation of one of more of these conditions, or of any local, state or federal law may result in your being taken back into custody and any bond which you may have posted being forfeited. Your release from custody is also conditioned upon your maintaining proper behavior while sponsorship and placement efforts for you are being undertaken.

Prior to your release from custody, an immigration officer will verify the sponsorship or employment offers presented during your review. Please forward any additional information regarding potential sponsoring family members or non-governmental organizations who may be willing to assist you upon release.

It is particularly important that you keep the INS advised of your address at all times. We will continue to make efforts to obtain your travel document that will allow the United States government to carry out your removal pursuant to your order of deportation, exclusion, or removal. You are required by law to cooperate in that effort. If we are successful in obtaining those documents, you will be required to surrender to the INS for removal. You will, at that time, be given an opportunity to prepare for an orderly departure.

Signature of HQPDO Director/Designated Representative

6/12/01

Date

AUG-15-2001 11:47

INS DISTRICT COUNSEL

215 656 7148 P.03/05

Decision of Post Order Court Review - Release

Page 2

Anh Le, A27 748 801

PROOF OF SERVICE

(1) Personal Service (Officer to complete both (a) and (b) below.)

(a) I KENNETH WALTMAN DEU
Name of INS Officer Title
 certify that I served ANH LE with a copy of
Name of detainee
 this document at SNYDER CO PRISON on 8-9-01 at 11:25
Institution Date Time

(b) I certify that I served the custodian GEORGE NYE
WARDEN at SNYDER CO PRISON on
Name of Official Institution
8-9-01 with a copy of this document.
Title Date

OR

(2) Service by certified mail, return receipt. (Attach copy of receipt)

I _____, _____, certify
Name of INS Officer Title
 that I served _____ and the custodian _____
Name of detainee Name of Official
 with a copy of this document by certified mail at _____ on _____
Institution Date

- () CC: Attorney of Record or Designated Representative
 () CC: A-File

AUG-15-2001 11:48

INS DISTRICT COUNSEL

215 656 7148 P.04/05

U.S. Department of Justice
Immigration and Naturalization Service

Order of Supervision

File No: A27 748 801

Date: 08-09-01

Name: Anh Trung LE

On 01-21-00, you were ordered:
(Date of final order)

- ☐ Excluded or deported pursuant to proceedings commenced prior to April 1, 1997.
☒ Removed pursuant to proceedings commenced on or after April 1, 1997.

Because the Service has not effected your deportation or removal during the period prescribed by law, it is ordered that you be placed under supervision and permitted to be at large under the following conditions:

- ☒ That you appear in person at the time and place specified, upon each and every request of the Service, for identification and for deportation or removal.
- ☒ That upon request of the Service, you appear for medical or psychiatric examination at the expense of the United States Government.
- ☒ That you provide information under oath about your nationality, circumstances, habits, associations, and activities and such other information as the Service considers appropriate.
- ☒ That you do not travel outside Kansas District for more than 48 hours without first
(Specify geographic limits, if any)
having notified this Service office of the dates and places of such proposed travel.
- ☒ That you furnish written notice to this Service office of any change of residence or employment within 48 hours of such change.
- ☒ That you report in person on the 15th day of each month to this Service office at:
9747 North Conant Avenue Kansas City, Missouri 64153
~~unless you are granted written permission to report on another date.~~
- ☒ That you assist the Immigration and Naturalization Service in obtaining any necessary travel documents.
- ☒ Other: Comply with the requirements of US Probation. Report to US Probation upon arrival in Kansas at 500 State Avenue, M 35 Kansas City, KS 66101-2431 Phone# (913) 551-6717.
- ☐ See attached sheet containing other specified conditions (Continue on separate sheet if required)



(Signature of INS official)

Kenneth John Elwood, District Director

(Print name and title of INS official)



Alien's Acknowledgment of Conditions of Release under an Order of Supervision

I hereby acknowledge that I have (read) (had interpreted and explained to me in the ENGLISH language) the contents of this order, a copy of which has been given to me. I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution.



(Signature of INS official serving order)



(Signature of INS alien)

8-9-01

(Date)

AUG-15-2001 11:48

INS DISTRICT COUNSEL

215 656 7148 P.05/0

_____, at ONTARIO CO PRISON, on _____, Title _____, Institution _____, with a copy of this document.
8-9-01 Date _____ OR

(2) Service by certified mail, return receipt. (Attach copy of receipt)

I _____, Title _____, certify _____, Name of INS Officer _____, and the custodian _____, that I served _____, Name of detainee _____, Name of Official _____, with a copy of this document by certified mail at _____, Institution _____, on _____, Date _____.

- () CC: Attorney of Record or Designated Representative
 () CC: A-File

(Page 2 of 2)

(Final 10/18/99)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ANH LE,	:	
Petitioner	:	No. 1:CV-00-2142
	:	
V	:	(Judge Caldwell)
	:	
JANET RENO, U.S. Attorney	:	
General,	:	
Respondent	:	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

That this 16th day of August, 2001, she served a copy of the attached

**RESPONDENTS' SUPPLEMENTAL RESPONSE TO THE
PETITION FOR WRIT OF HABEAS CORPUS**

by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

ADDRESSEE(S):

Anh Le
Snyder County Jail
600 Old Colony Road
Selingsgrove, PA 17870-8610


DAWN L. MAYKO
Legal Secretary